



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

PUBLIC AFFAIRS

February 20, 2007

In reply refer to: DK-7

Ms. Lori Winter, CLA
Public Service Company of New Mexico – Law Dept.
PNM Resources, Inc.
4100 International Plaza
Fort Worth, TX 76109

RE: FOIA Request #07-014

Dear Ms. Winter:

I am writing in response to your Freedom of Information Act (FOIA) request #07-014, which was received in this office on Friday, February 9, 2007. In your request you asked for a specific photograph (jpeg, tiff, etc.) that was taken by a Bonneville Power Administration employee, Mike McCracken, on or about October 17, 2006, in Albuquerque, New Mexico, during the ESMO Conference. You also asked for it in an electronic photo file format and agreed to pay all applicable fees.

In response to your request we have located and provided the abovementioned photograph. Exemption 6 has been applied to redact any identifying personal characteristics of the two men on the tower (i.e. their faces). The tower fell right after the picture was taken, killing one and severely injuring the other. This redaction would be pursuant to Exemption 6.

The procedure for Exemption 6 was ordered and used by the court in the FOIA request by the New York Times to the Department of Defense (DOD) for pictures of the Iraqi prisoners subjected to abuse by the military. *ACLU v DOD*, 389 F Supp 2d 547, 571-572 (SDNY 2005). In addition, the Authorizing Official for this FOIA request, Paul Mautner, Attorney-Adviser, General Counsel, (503) 230-5199 had a conversation with the Department of Justice OIP confirming the adequacy of this approach.

If you are dissatisfied with this determination, you may make an appeal within thirty (30) days of receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal."

You will be billed under separate cover by our Accounting Department, in the amount of \$26.90 for total costs associated with processing your request. I appreciate the opportunity to assist you with this matter. If you have any questions about this response, please contact my FOIA Specialist, Laura M. Atterbury, at (503) 230-7305.

Sincerely,

/s/ Christina J. Brannon

Christina J. Brannon
Freedom of Information Act Officer

Attachment (jpeg photograph):

